

Ordinance Requiring an Adequate Water Supply in Areas Outside of Active Management Areas Unless an Exemption Applies

Sec. 403 **Final Plat Additional Data:** Additional and/or related data, documents or exhibits to be submitted with the final plat, unless as otherwise specified below: ¹

403.1 Water Source:

A. If the subdivision will be located in an active management area, as defined in A.R.S. § 45-402, a certificate of assured water supply from the Arizona Department of Water Resources or a letter of commitment to supply water to the subdivision from a water provider designated by the Arizona Department of Water Resources having an assured water supply pursuant to A.R.S. § 45-576.²

B. If the subdivision will be located outside of an active management area, as defined in A.R.S. § 45-402, a water report issued by the Arizona Department of Water Resources determining that there is an adequate water supply for the subdivision or a letter of commitment to supply water to the subdivision from a water provider designated by the Arizona Department of Water Resources as having an adequate water supply. This requirement does not apply if any of the following apply:

1. The subdivider submits written verification from the Arizona Department of Water Resources that the Department granted the subdivision an exemption from the requirement pursuant to A.R.S. § 45-108.02 relating to substantial capital investment and the exemption has not expired; or

2. The subdivider submits written verification from the Arizona Department of Water Resources that the Department granted the subdivision an exemption from the requirement pursuant to A.R.S. § 45-108.03 relating to service from a water project within 20 years; or

3. The [*legislative body of a municipality or county board of supervisors*] previously approved a final plat for the subdivision prior to [*effective date of the ordinance*], the subdivider has made changes to the plat that require new approval from the board, and the subdivider submits written verification from the Arizona Department of Water Resources that the changes to the plat are not material under the rules adopted by the Department.

¹ This portion of the language was used to recommend amendments to Pinal County's ordinance regulating subdivision development, and fits within a list of items that must be submitted by the subdivider for final plat approval. The section number and related language should be modified as appropriate.

² This subsection should only be included if part of the county, city or town is included in an active management area.

Emergency Measure Language

Pursuant to A.R.S. § 19-142, the ordinance will not take effect until 30 days after final approval, unless the local jurisdiction approves it as an emergency measure. The emergency measure must include a separate section that states the reason why the ordinance must become immediately operative.

An emergency measure must be approved by the affirmative vote of three-fourths of the elected members of the legislative body and approved by the mayor. Although the statute in question refers to cities and towns, the statute also applies to counties. *State v. Oakley*, 180 Ariz. 34, 37, 881 P.2d 366, 369 (App. 1994).

The following language is recommended for emergency enactment:

Water availability is critical for current residents as well as future residents, and the approval of new subdivisions within the [*city, town or county*] without a determination of adequate water supply by the Arizona Department of Water Resources places the water supplies of current and future residents at risk. The [*legislative body of a municipality or county board of supervisors*] therefore finds that it is necessary for the immediate preservation of the peace, health and safety of the [*city, town or county*] that this Ordinance become effective immediately. This Ordinance is therefore declared to be an emergency measure, to take effect immediately upon its passage by the [*legislative body of a municipality or county board of supervisors*].